



Citation: *VM v Canada Employment Insurance Commission*, 2022 SST 1007

**Social Security Tribunal of Canada
General Division – Employment Insurance Section**

Decision

Appellant: V. M.

Respondent: Canada Employment Insurance Commission

Decision under appeal: Canada Employment Insurance Commission reconsideration decision (442706) dated December 7, 2021 (issued by Service Canada)

Tribunal member: Solange Losier

Type of hearing: Teleconference

Hearing date: February 9, 2022

Hearing participant: Appellant

Decision date: February 10, 2022

File number: GE-21-2527

Decision

[1] The appeal is dismissed. The Tribunal disagrees with the Claimant.

[2] The Claimant has not shown that he has worked enough hours to qualify for Employment Insurance (EI) sickness benefits.

Overview

[3] The Claimant worked as a salesman and his last day of work was September 24, 2021. He applied for Employment Insurance sickness benefits.¹ The Canada Employment Insurance Commission (the Commission) decided that the Claimant had not worked enough hours to qualify.²

[4] The Commission says that the Claimant does not have enough hours because he needs 420 hours, but only has 122 hours.³ The Commission says that he does not qualify for the 480 hours credit because his claim started on September 26, 2021. They submit that his last day of work was September 25, 2021 and this is when his interruption of earnings occurred.

[5] The Claimant disagrees and says that he made his application on September 24, 2021, so he should have been entitled to the one-time credit of 480 hours.⁴

[6] I must decide whether the Claimant has worked enough hours to qualify for sickness.

Matter I have to consider first

[7] The Claimant initially requested an in-person hearing, however they have been paused during the pandemic. He agreed to proceed by teleconference.

¹ See application for benefits at GD3-3 to GD3-16.

² See initial decision dated November 4, 2021 at GD3-27 and reconsideration decision dated December 7, 2021 at GD3-35.

³ See Commission's representations at GD4-1 to GD4-8.

⁴ See Claimant's notice of appeal forms at GD2-1 to GD2-9.

Issue

[8] Has the Claimant worked enough hours to qualify for EI sickness benefits?

Analysis

How to qualify for benefits

[9] Not everyone who stops work can receive EI benefits. You have to prove that you qualify for benefits.⁵ The Claimant has to prove this on a balance of probabilities. This means that he has to show that it is more likely than not that he qualifies for benefits.

[10] To qualify, you need to have worked enough hours within a certain time frame. This time frame is called the “qualifying period.”⁶

[11] In general, the number of hours depends on the unemployment rate in your region.⁷ But, the law provides another way to qualify for special benefits and this includes sickness benefits.⁸

The Claimant’s qualifying period

[12] As noted above, the hours counted are the ones the Claimant worked during his qualifying period. In general, the qualifying period is the 52 weeks before your benefit period would start.⁹

[13] Your **benefit period** is not the same thing as your **qualifying period**. It is a different time frame. Your benefit period is the time when you can receive EI benefits.

[14] I find that the Commission correctly decided that the Claimant’s qualifying period was the usual 52 weeks, from September 27, 2020 to September 25, 2021.¹⁰

⁵ See section 48 of the Act.

⁶ See section 7 of the Act and section 93 of the Regulations.

⁷ See section 7(2)(b) of the Act and section 17 of the Regulations.

⁸ See section 152.03(1) of the Act.

⁹ See section 8 of the Act.

¹⁰ See section 8(1) of the Act.

The hours the Claimant worked

[15] The Claimant and Commission agree that the Claimant had worked 122 hours during his qualifying period. This is consistent with his record of employment.¹¹

Accordingly, I accept it as fact.

Temporary measures in law

[16] There were temporary measures in law put in place because of the COVID-19 pandemic. One of these measures included providing an increase of hours of insurable employment by giving Claimants a credit of hours. The credit was intended to help to facilitate access to EI regular and special benefits.¹²

[17] For example, if Claimant had a minimum of 120 hours of insurable employment, they would receive a one-time credit of 300 insurable hours for claims for regular benefits or 480 insurable hours for claims for special benefits established between September 27, 2020 and September 25, 2021.¹³

[18] In this case, the application form shows that the Claimant applied on his last day of work, which was September 24, 2021.¹⁴ The Claimant's main argument is that since he applied on September 24, 2021, he only needed 120 hours. He has relied on information he found on the Service Canada website.¹⁵

[19] I disagree with the Claimant for a few reasons.

[20] First, on April 19, 2021, the Budget 2021 was implemented and it included a number of temporary measures that came into force on September 26, 2021. It said that all Claimants who establish a benefit period from September 26, 2021 to September 24,

¹¹ See record of employment issued on November 3, 2021 at GD3-17.

¹² See section 153.17(1) of Part VIII.5 of the Act – Temporary Measures to Facilitate Access to Benefits; see section 153.196 of the Act.

¹³ See section 153.17 of Part VIII.5 of the Act – Temporary Measures to Facilitate Access to Benefits.

¹⁴ See GD3-14.

¹⁵ See GD2-7.

2022 now require 420 hours of insurable employment. That means the previous credit of hours no longer exists.

[21] Second, even though the Claimant applied for sickness benefits on Friday, September 24, 2021, his claim only became effective on the Sunday, September 26, 2021. This was done correctly by the Commission. The law says that a benefit period begins on the later of the Sunday of the week in which the interruption of earnings occurs.¹⁶

[22] Third, there was no interruption of earnings prior to September 24, 2021 which may have permitted him to make his claim made effective earlier.¹⁷ The Claimant said he was working consistently from September 7, 2021 to September 24, 2021.

[23] Lastly, I have no authority or discretion in law to grant the Claimant benefits, even though he has compassionate circumstances given his heart condition.

[24] EI is an insurance plan and, like other insurance plans, you have to meet certain requirements to receive sickness benefits. In this case, the Claimant does not meet the requirements, so he does not qualify for sickness benefits. I cannot change the law.¹⁸

So, has the Claimant worked enough hours to qualify for benefits?

[25] I find that the Claimant has not proven that he has enough hours to qualify for EI sickness benefits because he needs 420 or more hours, but has 122 hours.

Conclusion

[26] The Claimant does not have enough hours to qualify for EI sickness benefits.

[27] This means that the appeal is dismissed.

Solange Losier

Member, General Division – Employment Insurance Section

¹⁶ See subsection 10(1) of the Act.

¹⁷ See subsection 14 of the Regulations.

¹⁸ See *Pannu v Canada (Attorney General)*, 2004 FCA 90.